



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,968	03/05/2002	Richard B. Streeter	VIA-17	7502
7590 Pandiscio & Pandiscio 470 Totten Pond Road Waltham, MA 02154		08/01/2007	EXAMINER PELLEGRINO, BRIAN E	
			ART UNIT 3738	PAPER NUMBER
			MAIL DATE 08/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/090,968

Applicant(s)

COHN ET AL.

Examiner

Brian E Pellegrino

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5,14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hojeibane (5911732) in view of Kleshinski (5755778). Hojeibane shows (Fig. 3) a bendable elongated body with at least two spring segments **5** connecting proximal and distal ends. Hojeibane also discloses that the spring segments or connectors can be elastic or of shape memory material, col. 7, lines 7,8,13,14,40. Hojeibane additionally discloses the elongate body is expandable to a second configuration, col. 5, lines 10,11. It is inherent that the spring segment contracts lengthwise as it is known that spring construction sections of stents shorten or contract lengthwise, see Figs. 1A,1B,2A,2B of Palmaz (US 4733665). However, Hojeibane does not disclose that there is a plurality of barbs on fixed length sections of the proximal and distal ends to engage a vessel wall. Kleshinski teaches (Fig. 1) hollow cylindrical tube sections at the proximal and distal ends of the elongate body having barbs **20**. Kleshinski also teaches that the barbs are adapted to engage a vessel wall, col. 3, lines 41-43. It would have been obvious to one of ordinary skill in the art to incorporate barbs on all the hollow tube portions including the proximal and distal end sections as taught by Kleshinski in the stent of Hojeibane such that it enables the device to be better anchored to the vessel wall and prevents migration of the stent.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hojeibane '732 in view of Kleshinski '778 and Solem et al. '432. Hojeibane and Kleshinski are explained above. However, both Hojeibane and Kleshinski fail to teach the stents for use in the coronary sinus. Solem et al. disclose a method of reducing mitral regurgitation by placing a prosthesis into the coronary sinus to reduce the gap between leaflets, col. 4, lines 19-21,38,39. Solem also discloses the device is made of a shape memory alloy (col. 3, lines 38-41) which inherently enables the device to transform from a first configuration to a second configuration. It can be seen (Fig. 3) the device is a spring-like structure with barbs that extend from end to end. As in the combination above Hojeibane and Kleshinski would result in a stent with barbs. It would have been obvious to one of ordinary skill in the art to use a barbed stent of Hojeibane as modified by Kleshinski in the coronary sinus since Solem also teaches a barbed stent that is placed in the coronary sinus. The use of the hollow tube or solid proximal and distal end barbed stent would provide more structural support to the vessel walls.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-5,12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3738

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Pellegrino whose telephone number is (571) 272-4756. The examiner can normally be reached on Monday-Friday from 7:30am to 5pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached at (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 3738

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**BRIAN E. PELLEGRINO**  
**PRIMARY EXAMINER**

TC 3700, AU 3738